

S/N 10/663,153

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant:	Feldman et al.	Examiner:	A. Noguerola
Serial No.:	10/663,153	Group Art Unit:	3729
Filed:	September 15, 2003	Docket No.:	12008.32USC7
		Confirmation No.:	2148
Title:	SMALL VOLUME IN VITRO ANALYTE SENSOR		

Filed EFS-WEB

SUPPLEMENTAL INFORMATION DISCLOSURE STATEMENT (37 C.F.R. § 1.97(b))

Commissioner for Patents
P.O. Box 1450
Alexandria, Virginia 22313-1450

Dear Sir:

With regard to the above-identified application, the items of information listed on the enclosed Form 1449 are brought to the attention of the Examiner.

This statement should be considered because it is submitted after the mailing date of a first Office Action on-the-merits or a first Office Action after filing a Request for Continued Examination under 37 C.F.R. § 1.114 or a CPA under 37 C.F.R. § 1.53(d), but before the mailing date of: i) a final action under 37 C.F.R. § 1.113; ii) a Notice of Allowance under 37 C.F.R. § 1.311; or iii) an action that otherwise closes prosecution on the application. Enclosed is payment in the amount of \$180 under 37 C.F.R. § 1.17(p) for consideration of the items listed on the enclosed Form 1449.

A copy of any foreign patent document or "Other Document" listed on the Form 1449 is enclosed, in accordance with 37 C.F.R. § 1.98(a)(2). Because this application was filed after June 30, 2003, copies of the U.S. Patents and U.S. patent publications listed on the enclosed Form 1449 are not provided.

No representation is made that a reference is "prior art" within the meaning of 35 U.S.C. §§ 102 and 103 and Applicants reserve the right, pursuant to 37 C.F.R. § 1.131 or otherwise, to establish that the reference(s) are not "prior art." Moreover, Applicants do not represent that a

reference has been thoroughly reviewed or that any relevance of any portion of a reference is intended.

Consideration of the items listed is respectfully requested. Pursuant to the provisions of M.P.E.P. 609, it is requested that the Examiner return a copy of the attached Form 1449, marked as being considered and initialed by the Examiner, to the undersigned with the next official communication.

This patent application is of a family that has a parent patent (i.e., U.S. Patent No. 6,592,745) currently involved in litigation: UNITED STATES DISTRICT COURT, NORTHERN DISTRICT OF CALIFORNIA, SAN FRANCISCO DIVISION, Case No. C-05-3117, THERASENSE, INC. and ABBOTT LABORATORIES vs. ROCHE DIAGNOSTICS CORP. and BAYER HEALTHCARE LLC.

Both Defendants, Roche and Bayer, have asserted that the '745 patent is invalid, and both Defendants have presented Invalidity Contentions. This Information Disclosure Statement brings these contentions and the references relied upon to the Patent Office's attention.

Listed on the Form 1449 are the two Invalidity Contention documents which include all the references relied upon. Also, separately listed on the Form 1449 are those references relied upon which have previously not been cited in this application.

The Patent Office is invited to contact the undersigned if there are any questions.

Please charge any additional fees or credit any overpayment to Deposit Account No. 13-2725.

Respectfully submitted,

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Date:

Oct 25, 2007

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